UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,640	01/18/2001	Glenn G. Amatucci	1380-US	8661

7590 01/16/2004

EXAMINER
TUGBANG, ANTHONY D

ART UNIT	PAPER NUMBER
3729	15

Vincent Smeraglia, Esq.
Rutgers University
ASB III, 3 Rutgers Plaza
New Brunswick, NJ 08901

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Advisory Action	Application No.	Applicant(s)	
	09/764,640	AMATUCCI, GLENN G.	
	Examiner	**Art Unit**	
	A. Dexter Tugbang	3729	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires *6* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on *05 January 2004*. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Attachment*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *None*.

   Claim(s) objected to: *15*.

   Claim(s) rejected: *9-14,16 and 17*.

   Claim(s) withdrawn from consideration: *None*.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

A. Dexter Tugbang
Primary Examiner
Art Unit: 3729

Attachment to Advisory Action

In regards to the merits of the prior art, the applicant believes that the applied art in the Final Rejection (Paper No. 12) does not teach an "activated carbon fabric" (1st occurrence at line 4 and 2nd occurrence at line 6).

The applicant's assertion, as the examiner understands this, is that their carbon fabric is considered to be "activated" because it has a surface area in the range of 1500 m^2/g (paragraph bridging the bottom of page 6 to the top of page 7 in the amendment filed 1/5/04, Paper No. 14).

The examiner traverses the above assertion for two reasons. First, the carbon coated layer relied upon in Tsai et al and the carbon fibers relied upon in Halliop, each inherently have a *surface area* necessary for lamination. That alone would be sufficient evidence that both Tsai and Halliop each teach an "activated carbon fabric". It is noted that a "surface area of the carbon fabric" or any specific surface area of 1500 m^2/g, is not even recited in the rejection claims and it appears that the applicant is arguing more specifically than that which is claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Second, the claims do not require to what extent the carbon fabric must be "activated". For example, the claims do not recite any active, positive manipulative step as to what extent the carbon fabric must be activated so that it can be called an "activated carbon fabric".

Therefore, the examiner maintains the rejection of Tsai et al in view of Halliop as the combination of both fully satisfy the limitations of Claims 9-14, 16 and 17 for the reasons stated in Paper No. 12.